

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

THEODORE R. MOLINE,

Plaintiff,

v.

CITY OF CASTLE ROCK, CASTLE ROCK  
POLICE DEPARTMENT; CASTLE ROCK  
FIRE & EMS; ROBERT HEUER, individually  
and in his capacity as police chief for City of  
Castle Rock; BRANDON McNEW,  
individually and in his capacity as a police  
officer for the Castle Rock Police Department;  
JAMES QUEEN, individually and in his  
capacity as a reserve officer for Castle Rock  
Police Department; ERIC KOREIS,  
individually and in his capacity as chief of  
Castle Rock Fire & EMS; KYLE McCOY,  
individually and in his capacity as captain for  
the Castle Rock Fire & EMS,

Defendants.

Case No. C04-5704FDB

ORDER GRANTING MOTION OF  
DEFENDANTS CITY OF CASTLE  
ROCK, HEUER, AND KOREIS  
MOTION FOR SUMMARY  
JUDGMENT


The introductory statement of the case herein was set forth in the Court's order granting summary judgment in favor of Defendants McNew, Queen, and McCoy. Robert Heuer is the Castle Rock Chief of Police, the police supervisor, and Eric Koreis is the Castle Rock Chief of Fire & EMS, the paramedic supervisor. Defendants City of Castle Rock (including Castle Rock Police Department and Castle Rock Fire & EMS), Robert Heuer, and Eric Koreis move for summary judgment dismissing Plaintiff's claims against them. Neither Heuer nor Koreis was present at the scene and neither participated in the incident.

1 Municipal liability for civil rights violations requires proof of three elements: (1) a violation of  
2 a plaintiff's constitutional rights, (2) existence of a municipal policy or custom of the municipality,  
3 and (3) a causal nexus between the policy or custom and the constitutional violation. *Monell v. New*  
4 *York City Dept. Of Social Services*, 436 U.S. 658, 691 (1978). There is no vicarious liability. *Id.*

5 The Court has already concluded in addressing the motion for summary judgment for  
6 McNew, Queen, and McCoy that there was no violation of Plaintiff Moline's constitutional rights.  
7 Neither has Moline demonstrated that a policy or custom was involved in the alleged deprivation of  
8 his rights. Moline has failed to support his claim on this summary judgment motion. While Moline  
9 alleges inadequate training, such a claim is appropriate only where the failure to train amounts to  
10 deliberate indifference to the right of persons with whom the police come into contact. *City of*  
11 *Canton v. Harris*, 489 U.S. 378, 388 (1989). No such evidence has been presented in this case.  
12 Moreover, a supervisory official is not liable for the actions of subordinates on a respondeat superior  
13 theory under 42 U.S.C. § 1983. *See Jeffers v. Gomez*, 267 F.3d 895, 910 (9<sup>th</sup> Cir. 2001). It is  
14 undisputed that the supervisors herein had no personal involvement in the subject incident with  
15 Moline. Consequently, the state law claims fail as well.

16 NOW, THEREFORE, IT IS ORDERED: The Motion of the City of Castle Rock (including  
17 Castle Rock Police Department, and Castle Rock Fire & EMS) , Robert Heuer, and Eric Koreis for  
18 Summary Judgment is GRANTED, and Plaintiff Moline's claims against them are DISMISSED with  
19 prejudice.

20 DATED this 14<sup>th</sup> day of December, 2005.

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23 FRANKLIN D. BURGESS  
24 UNITED STATES DISTRICT JUDGE  
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